

ASSEMBLY BILL

No. 6

Introduced by Assembly Member Logue

December 6, 2010

An act to amend Section 11357 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 6, as introduced, Logue. Regulations: economic impacts review.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires the Department of Finance to adopt and update, as necessary, instructions for inclusion in the State Administrative Manual that prescribe the methods that any agency shall use in making certain determinations relating to the impact of proposed regulations. Existing law also authorizes the department to review any estimate prepared pursuant to these provisions for content.

This bill would additionally require the department to adopt and update instructions for inclusion in the State Administrative Manual that prescribe the methods that any agency shall use in making certain determinations, estimates, statements, and findings relating to the economic and cost impacts of a regulation on businesses and private individuals. The bill would require, instead of authorize, the department to review these determinations, estimates, statements, and findings for content. This bill would require the department, if it determines that an agency's determinations, estimates, statements, or findings are erroneous or otherwise inconsistent with the prescribed guidelines, criteria, or

formats, to submit its determinations to the agency in the form of public comment to be considered by the agency, as specified.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 6, 2010, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11357 of the Government Code is
2 amended to read:
3 11357. (a) The Department of Finance shall adopt and update,
4 as necessary, instructions for inclusion in the State Administrative
5 Manual prescribing the methods that any agency subject to this
6 chapter shall use in making the ~~determination required by~~
7 ~~paragraph (5) and the estimate required by paragraph (6)~~
8 ~~determinations, estimates, statements, and findings described by~~
9 ~~paragraphs (5) to (11), inclusive,~~ of subdivision (a) of Section
10 11346.5. The instructions shall include, but need not be limited
11 to, the following:
12 (1) Guidelines governing the types of data or assumptions, or
13 both, that may be used, and the methods that shall be used, to
14 calculate the estimate of the cost or savings to public agencies
15 mandated by the regulation for which the estimate is being
16 prepared.
17 (2) The types of direct or indirect costs and savings that should
18 be taken into account in preparing the estimate.
19 (3) The criteria that shall be used in determining whether the
20 cost of a regulation must be funded by the state pursuant to Section
21 6 of Article XIII B of the California Constitution and Part 7
22 (commencing with Section 17500) of Division 4.
23 (4) The format the agency preparing the estimate shall follow
24 in summarizing and reporting its estimate of the cost or savings

1 to state and local agencies, school districts, and in federal funding
2 of state programs that will result from the regulation.

3 (5) *The format and criteria that the agency shall use in making*
4 *an initial determination that a regulation either may have or will*
5 *not have a significant, statewide adverse economic impact directly*
6 *affecting business, consistent with the requirements of subdivision*
7 *(a) of Section 11346.3, and including the corresponding*
8 *information required pursuant to paragraphs (7) and (8) of*
9 *subdivision (a) of Section 11346.5.*

10 (6) *The criteria the agency shall consider in determining and*
11 *describing cost impacts that a representative private person or*
12 *business would necessarily incur in reasonable compliance with*
13 *a proposed regulation.*

14 (7) *The format and criteria that the agency shall use in assessing*
15 *and stating the impact of a regulation on the creation or*
16 *elimination of jobs, the creation of new businesses, the elimination*
17 *of existing businesses, and the expansion of businesses in this state,*
18 *consistent with the requirements of subdivision (b) of Section*
19 *11346.3.*

20 (8) *The format and criteria that the agency shall use in making*
21 *a finding that a regulation that imposes a reporting requirement*
22 *applicable to businesses is necessary for the health, safety, or*
23 *welfare of the people of the state, consistent with the requirements*
24 *of subdivision (c) of Section 11346.3.*

25 (b) Any action by the Department of Finance to adopt and
26 update, as necessary, instructions to any state or local agency for
27 the preparation, development, or administration of the state budget,
28 including any instructions included in the State Administrative
29 Manual, shall be exempt from this chapter.

30 (c) The Department of Finance ~~may~~ shall review any ~~estimate~~
31 *determination, estimate, statement, or finding* prepared pursuant
32 to this section for content including, but not limited to, the data
33 and assumptions used in its preparation.

34 (d) *If the department determines that any determination,*
35 *estimate, statement, or finding described by paragraphs (5) to*
36 *(11), inclusive, of subdivision (a) of Section 11346.5 is erroneous*
37 *or otherwise inconsistent with the guidelines, criteria, or format*
38 *required by this section, the Department of Finance shall submit*
39 *its determinations, along with any supporting documents, to the*

1 *agency in the form of public comment for consideration by the*
2 *agency prior to the close of the public comment period.*
3 SEC. 2. This act addresses the fiscal emergency declared by
4 the Governor by proclamation on December 6, 2010, pursuant to
5 subdivision (f) of Section 10 of Article IV of the California
6 Constitution.

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